REMARKS

1. Status of the Claims and Claim Numbering

In the Notice, the Examiner asserts that the status of claims as indicated in Applicant's previously reply of November 11, 2008 is incorrect. Specifically, the Examiner alleges that the status of claims 40-42 is incorrect because only claims 1-39 were present in the amendment filed on April 21, 2008 (the "April 2008 Reply"). As explained below, in view of the history of claim amendments for this application, Applicant submits that the claim numbering in the April 2008 Reply amendments was erroneous. New claims 38 and 39 of the April 2008 Reply should have been numbered 41 and 42. The Office Action mailed on May 29, 2008, however, entered the amendments requested in the April 2008 Reply and thus sustained Applicant's erroneous numbering recognizing the presence of claims 1-39. Based on a correct accounting for claim numbering, Applicant submits that claims 21, 23, 35, 36, 41, and 42 are pending in this application. Claims 21, 23, 35, and 41 are allowed.

Shown below is an account of the pending and canceled claims during the prosecution history of this application. Only claim amendments that were entered are indicated.

Date	Pending Claims	Canceled Claims
08/28/03 (original claims)	1-20	None
09/13/06	21	1-20
09/21/06	21-40	1-20
05/09/07	21, 23-25, 27, 28, 35, 36	1-20, 22, 26, 29-34, <i>37-40</i>
10/01/07	21, 23-25, 27, 28, 35, 36	1-20, 22, 26, 29-34, <i>37-40</i>
04/21/08	21, 23, 35, 36, <i>38</i> , <i>39</i>	1-20, 22, 24-34, 37

As shown in the table, new claims 22-40 were introduced by Applicant's amendment of September 21, 2006. See Appendix A. These amendments were entered and then recognized in the Office Action mailed on November 9, 2006, which indicates pending claims 21-40. See Appendix B. Claims 37-40 were subsequently canceled in Applicant's amendment of May 9, 2007. See Appendix C. This amendment was entered and then recognized in the Office Action mailed on May 30, 2007, which indicates pending claims only up to claim 36. See Appendix D. The same claims, 21, 23-25, 27, 28, 35 and 36 were pending after Applicant's amendment of October 1, 2007, as indicated by the Office Action mailed on November 20, 2007. See Appendix E.

In view of this history, claims 1-40 have been present in the application since entry of the September 21, 2006 amendment, and Applicant's addition of new claims 38 and 39 in the April 2008

Docket No. 050992.0300.07USCP

Application No. 10/604,943

Reply was erroneous. See Appendix F. Claims 38 and 39 should have been numbered 41 and 42. To correct this erroneous numbering, as explained in Applicant's most recent November 11, 2008 reply, Applicant indicated claims 37-40 as being canceled, and new claims 38 and 39 from the April 2008 Reply as being number 41 and 42. Applicant submits that the claim status indications in April 2008 Reply showing claim 40 as canceled, 41 as previously presented, and 42 as currently amended, are accurate. In view of the foregoing, Applicant respectfully requests that the Examiner withdraw the Notice and review the April 2008 Reply as filed.

2. Conclusion

Applicant respectfully submits that the instant application is in good and proper order for allowance and early notification to this effect is solicited. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the instant application, the Examiner is encouraged to call the undersigned at the number listed below.

Respectfully submitted,

POLSINELLI SHALTON FLANIGAN SUELTHAUS PC

Dated: February 9, 2009 On behalf of: Teddy C. Scott, Jr., Ph.D.

Registration No. 53,573

By: /Ron Galant, Ph.D./

Ron Galant, Ph.D. Registration No. 60,558 Customer No. 37808

POLSINELLI SHALTON FLANIGAN SUELTHAUS PC 180 N. Stetson Ave., Suite 4525 Chicago, IL 60601 312.819.1900 (main) 312.602.3955 (E-fax) 312.873.3613 (direct) Application No. 10/604,943

APPENDIX A

Application No.: 10/604,943 Docket No.: 050992.0300.CPUS07

- 32. (new) The nucleic acid of claim 30, wherein the nucleic acid is capable of modulating expression of a target gene.
- 33. (new) The nucleic acid of claim 31, wherein the nucleic acid is at least 15/25 complementary to a binding site sequence of 18 to 24 nucleotides of a target gene and wherein the binding site sequence is located in an untranslated region of RNA encoded by the target gene.
- 34. (new) The nucleic acid of claim 32, wherein the nucleic acid is at least 15/25 complementary to a binding site sequence of 18 to 24 nucleotides of a target gene and wherein the binding site sequence is located in an untranslated region of RNA encoded by the target gene.
- 35. (new) A vector comprising an insert, wherein the insert consists of the nucleic acid of claim 21.
- 36. (new) A vector comprising an insert, wherein an insert consists of the nucleic acid of claim 25.
- 37. (new) A probe comprising insert, wherein an insert consists of the nucleic acid of claim 21.
- 38. (new) A probe comprising an insert, wherein an insert consists of the nucleic acid of claim 25.
- 39. (new) A gene expression inhibition system comprising the vector of claim 35 and a means for inserting said vector into a cell.
- 40. (new) A gene expression inhibition system comprising the vector of claim 36 and a means for inserting said vector into a cell.

APPENDIX B



United States Patent and Trademark Office

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Please find below and/or attached an Office communication concerning this application or proceeding.

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APPENDIX C

Application No.: 10/004/48 Denter No.: 050502.0800.07USCP

AMENDMENTS TO THE CLAIMS

- 20. (campring)
- (Commity Amended) An issisted sucieic acid consisting of 48-w-430 X medicatides wherein the sequence of the suchric acid comprises:
 - (a) at least 46-X connectative nucleotides of SEQ 10 AO: 4746(X2S; 122, 131, cr.133).
 - (b) on RNA aquivalent of (a);
 - (c) is negociate at least 48/48(2,2% identical to (c) or (b); or
 - (d) the complement of any one of (a)-(c),

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- 22. (Casceled)
- (Currently Amended) The nucleic acid of claim 21, wherein the st-lesse-isiX nucleotides is any of a sequence selecting subglood from the group consisting of SEQ ID NOS: 477, 480, and 482.
- 24. (Currently Amended) The moteic acid of claim 21, wherein the market acid-nominate of Xm18 to 24-marketistes.
- (Currenty Amended) The metals acid of claim 21, wherein XuX, the exquence of the ameleis acid combine et:

(a)\$69-49-440-4746)

an KNA agairalant of (a);

(a)a requesta es trans 40% aunicesides identical so (a) or (b); or

(d)the complement of any case of (4)-(a).

- 26. (Conviet)
- Currently Amendral) The motivic acid of claim-1873, wherein XmX,8m or from 18
 anniumidae to of a conjugate arbitrated from the groups anniuming of SEQ-NAME 472, 486, and 485.
- 28. (Currently Amendus) The motivis sold of claim 15. wherein the medicin-wish-remission of Xxx18 to 24-mass-resides.
 - 29. 34 (Cascorted)
- (Currently Anusabel) A vector comprising an invest-whemin the insert consists of the matrix acid of claim 21.
- (Currently Amended) A vector comprising as immediate invariant continuous acid of claim 25.

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Application No.: 10804,900 Contact No.: 050972,0000,0703CP

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APPENDIX D



United States Patent and Trademark Office

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPENDIX E



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The time period for reply, if any, is set in the attached communication.

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APPENDIX F

Application No. 10/604/943

Docker No. 050997.0300.07USCP

AMENDMENTS TO THE CLAIMS

- 1. 20. (Canceled)
- 21. (Currently Amended) An isolated nucleic acid consisting of X-nucleotides wherein the sequence of the nucleic acid comprises is <u>selected from the group consisting of</u>:
 - (a) Y-consecutive mudeotides of SEQ ID NOS: 128, 131, or 133:
 - (b) an RNA equivalent encoded by the nucleic acid of (a); and
 - (c) a requesses at least \$6.3% identical to (a) or (b); or
 - (d)(c) the complement of any one of (a) (e) (a) or (b), wherein the complement is identical in length to (a) or (b).

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- 22. (Checosted)
- (Corrently Amended) The Agginging nucleic acid-of-cision-24, wherein the X musiconides one of a sequence of the musicial acid is selected from the group consisting of; SEQ ID-WOS-473, 489, and 483
 - (6) SEQ IO NO 477, SEQ ID NO 48%, or SEQ ID NO 492;
 - (b) as RNA encoded by the posteic acid of (s); and
 - (c) the complement of (a) or (b), wherein the complement is identical in length to (a) or (b).
 - 24. 34. (Canceled)
 - 35. (Proviously presented) A vector comprising the nucleic sold of claim 21.
 - 36. (Currently Amended) A vector comprising the nucleic acid of claim 35.23.
 - 37. (Canceled)
 - 38. (New) A probe comprising the nucleic sold of claim 21.
 - 39. (New) A probe comprising the nucleic acid of claim 23.